

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RYON S. REESE,

Plaintiff,

v.

B. NEUMEIR, et al.

Defendants.

ORDER

Case No. 15-cv-400-bbc

Plaintiff Ryon S. Reese, a prisoner in the custody of the Wisconsin Department of Corrections, has submitted a proposed civil action under 42 U.S.C. § 1983. Plaintiff has filed a certified copy of an inmate trust fund account statement in support of the motion for leave to proceed without prepaying the fee. After considering the motion and supporting documentation, the court concludes that plaintiff qualifies for indigent status.

Even when a prisoner litigant qualifies for indigent status, the prisoner litigant must pay a portion of the fee returned by the formula set forth in 28 U.S.C. § 1915(b)(1). Using information for the relevant time period from plaintiff's trust fund account statement, I calculate plaintiff's initial partial filing fee to be \$127.73. For this case to proceed, plaintiff must submit this amount on or before July 27, 2015.

If plaintiff does not have enough money to make the initial partial payment from plaintiff's regular account, plaintiff should arrange with prison authorities to pay the remainder from plaintiff's release account.

With the complaint, plaintiff also filed a motion to use release account funds to pay the fee for filing this case and sheriff's service fee. (Dkt. #3). However, with the

exception of initial partial payments, federal courts lack the authority to tell state officials whether and to what extent a prisoner should be able to withdraw money from a release account.

The only money that the state need take from a state prisoner's release account is money that fits within the formula specified in 28 U.S.C. § 1915. Accordingly, if plaintiff has any money in his regular account, prison officials may use that money first before using money in plaintiff's release account to pay the initial partial payment.

ORDER

IT IS ORDERED that,

1. Plaintiff Ryon S. Reese is assessed \$127.73 as an initial partial payment of the \$350.00 fee for filing this case. Plaintiff is to submit a check or money order made payable to the clerk of court in the amount of \$127.73, or advise the court in writing why plaintiff is not able to submit the assessed amount on or before July 27, 2015.

2. Plaintiff Ryon S. Reese's motion for use of release account funds to pay the entire filing fee and sheriff's service fee in this case (Dkt. #3) is DENIED.

3. If, by July 27, 2015, plaintiff fails to make the initial partial payment or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff's filing this case at a later date.

4. No further action will be taken in this case until the clerk's office receives plaintiff's initial partial filing fee as directed above and the court has screened the

complaint as required by the PLRA, 28 U.S.C. § 1915A. Once the screening process is complete, a separate order will issue.

Entered this 6th day of July, 2015.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge